

***DRAFT 2/28/17 – SUBJECT TO CHANGE  
For Review and Adoption by the Council at the March 23, 2017 Meeting***

**DELTA STEWARDSHIP COUNCIL  
Thursday, February 23, 2017 and Friday, February, 24, 2017  
Park Tower Plaza, 2<sup>nd</sup> Floor Conference Center  
980 9<sup>th</sup> Street, Sacramento, CA 95814**

**MEETING SUMMARY**

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**Day 1: Thursday, February 23, 2017**

**1. Welcome and Introductions**

The meeting was called to order at 9:00 a.m., Feb. 23, 2017, by Chair Randy Fiorini.

**2. Roll Call – Establish a Quorum (Water Code §85210.5)**

Roll call was taken and a quorum was established. The following members were present: Patrick Johnston, Frank Damrell, Ken Weinberg, Susan Tatayon, and Randy Fiorini. Council members Mike Gatto and Skip Thomson arrived during Closed Session.

**3. Closed Executive Session – (Not open to the public) (Action Item)**

*The Council may discuss litigation matters pursuant to Government Code §11126 (e)(2)(a), (e)(2)(B)(i), and/or (e)(2)(C)(i), including: (a) Delta Stewardship Council Cases, Coordinated Proceeding JCCP No. 4758, and (b) Bracewell Engineering Inc., et al., v. Delta Stewardship Council, et al., Sacramento County Superior Ct. No. 34-2015-80002178.*

The Closed Session (Litigation) convened at 9:06 a.m. and adjourned at 10:10 a.m., with Chair Randy Fiorini presiding.

**4. Reconvene Open Session**

Upon adjournment of the Closed Session, the Delta Stewardship Council (Council) reconvened in Open Session at 10:15 a.m.; Chair Fiorini indicated no action had been taken during the Closed Session.

After reconvening, Chair Fiorini requested another roll call as Council members Mike Gatto and Skip Thomson had arrived. All members of the Council were present. Chair Fiorini took the opportunity to introduce new Council member, Assembly Member (retired) Mike Gatto. Member Gatto said the district he represented was in Southern California but he came to know of the Delta during his time in Sacramento. The Delta is a tremendous asset for the State and one that should be cherished. Member Gatto said it was an honor to serve on the Council, there is a lot to learn, and he looked forward to working with the Council.

## 5. Adoption of the January 26, 2017 Meeting Summary (Action Item)

Chair Fiorini asked if there were any questions, suggestions, or comments from the Council or public regarding the Jan. 26, 2017, meeting summary; there were none.

**Motion:** (Offered by Johnston, seconded by Weinberg) to approve the Jan. 26, 2017, meeting summary.

**Vote:** (7/0: Johnston, Damrell, Weinberg, Gatto, Tatayon, Fiorini, Thomson) and the motion was adopted.

*The video showing this motion and vote can be found on the linked agenda <http://cal-span.org/unipage/index.php?site=cal-span&owner=DSC&date=2017-02-23> at 04:58.*

## 6. Chair's Report

Chair Fiorini began his report by telling the Council he'd learned a new term "weather whiplash", which he said the lead scientist would expand upon during his report. Chair Fiorini said he couldn't begin the meeting without acknowledgement of the shift in weather patterns the state has experienced. The year 2015 was possibly the driest year on record in California and now California may be on the verge of the wettest year on record, all within a two-year timeframe. The relevance of the Council's work is becoming increasingly more important and the public is becoming more aware and more interested in the Council's work. Often times, we speak of the transportation system and how there is a need for improvement because people experience it every day. With water, however, he said that when you turn the tap on and water comes out, you don't necessarily understand there are potential problems and needs for investments behind that tap.

Chair Fiorini acknowledged those working hard to deal with the high flows of water and reported that as far as the Delta region was concerned, so far so good. He noted that the levees in the Delta are some of the hardest working levees in the world and he said he continues to wish everyone well who has front-line responsibilities.

In the past month, the Council had been working with the Central Valley Flood Protection Board (Flood Board) and the Department of Water Resources (DWR) to further the efforts of the workgroup that was set up to try to weave together the Flood Board's Central Valley Flood Protection Plan and the Council's Delta Levees Investment Strategy (DLIS). Chair Fiorini reported that he had an opportunity to attend one of the Flood Board's field meetings in Merced; he found it interesting that there were essentially no members of the public in attendance but that efforts to synthesize the work that is being done is coming together very well. The Flood Board's plan includes an effort to purchase property in the Paradise Cut area, in the next 10 years, to improve floodplain inundation, relieving stress on the flood system in the lower San Joaquin River. This is in keeping with what the Council calls for in the Delta Plan and the DLIS and is an example of where the plans are well linked.

## 7. Executive Officer's Report

Executive Officer Jessica Pearson followed up on Chair Fiorini's "weather whiplash" theme, noting that it was only four months ago that there was speculation about the potential for a sixth straight year of below normal precipitation. Now the state is faced with over-toppings, slumps, breaks, flood fighting, and even evacuation. Major northern California reservoirs have gone from 40-60 percent full at the start of the water year in October to nearly full or even spilling in the case of Oroville and Don Pedro. Even as surface water storage nears capacity in the north state, however, Ms. Pearson said that many of the state's groundwater basins remain seriously depleted. It's estimated that it will take decades before the aquifers in the Tulare Basin and the southern San Joaquin Valley will return to full capacity.

To her knowledge, the current flood events in the Delta have not led to injuries or worse and the heroic flood fighting efforts on Tyler Island, for example, have been successful in staving off a breach. McCormack-Williamson Tract at the confluence of the Cosumnes and the Mokelumne rivers and identified for tidal marsh restoration, did flood and the next steps for restoration efforts are unclear. She said the recent events have proven that the DLIS is not a theoretical exercise and are illustrative of some key points that are foundational in the development of the Delta Plan and point to the timeliness of the current amendments.

Ms. Pearson said that California's precipitation is highly variable and it will become more so because of climate change. A year like this clearly indicates that additional storage is essential if done correctly. Additional storage alone is not enough, especially now – reservoir releases are constrained by downstream channel capacity, making an already difficult balancing act between water storage and control even more challenging. We have to be able to move water during these brief windows and do so in more environmentally sensitive ways. If you can't get water across the Delta when it is available, storage only does you so much good.

She also noted that, even with large amount of precipitation this year, conservation continues to be a critical component of overall water supply reliability. Efficient use of water should become a habit not something that is done only during a drought, which is part of the reason the State Water Resources Control Board (Water Board) extended the emergency drought regulations a few weeks ago, despite many urging for their relaxation. The issue will be revisited by the Water Board in May. A key benefit of the regulations has been regular reporting of urban water use throughout the state, which was called for in the Delta Plan.

A series of public workshops regarding a proposed amendment to the Delta Plan for Conveyance, Storage Systems, and the Operation of Both has been scheduled; staff will report on this later in the agenda. As we search for a new lead scientist, public brown bags seminars with the candidates will be held; flyers are posted on the Council's website at <http://deltacouncil.ca.gov/docs/updated-series-list-brown-bag-seminars-showcasing-candidates-delta-lead-scientist-position>.

Ms. Pearson brought to the Council's attention a comment letter sent by staff on Jan. 31, 2017 to Nedzlene Ferrario, Solano County Department of Resource Management, regarding Honker Bay Conservation Bank Recirculated Draft Initial Study/Mitigated Negative Declaration. The letter is posted on the Council's website at [http://deltacouncil.ca.gov/sites/default/files/2017/02/Honker\\_Bay\\_Conservation\\_Prj\\_ens.pdf](http://deltacouncil.ca.gov/sites/default/files/2017/02/Honker_Bay_Conservation_Prj_ens.pdf).

Ms. Pearson introduced new employees Kieu Nguyen, Ron Melcer, and Delia Ruiz. Ms. Nguyen joins the Council as the receptionist in the Administrative Division after eight years as an administrative coordinator for the Folsom-Cordova School District. Mr. Melcer joins the Council as our new Senior Environmental Scientist in the Performance Management Office of the Planning and Performance Division. Melcer came from DWR where he has worked for the last seven years in the Floodway Ecosystem Sustainability Branch. Melcer holds a master's degree in biology from Cal Poly San Luis Obispo, and has continued to collect data and study riparian vegetation and bird populations in coastal watersheds of San Luis Obispo and Monterey Counties. He is currently completing his PhD in Geography at the University of California, Davis, investigating the effects of climate change on geomorphic process and Bank Swallow habitats along Central Valley rivers. Ms. Ruiz, joins the Council as our new senior personnel specialist. Ms. Ruiz has 12 years of experience working at the Employment Development Department and the Department of Corrections as a personnel specialist/technician. Ms. Ruiz will work in the Council's Human Resources Office.

### **7a. Legal Update**

Acting Chief Counsel Bethany Pane invited attorney Adam Silva to provide the Legal Update. Mr. Silva's update is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-7a-legal-update>.

Following the Legal Update, Chair Fiorini asked if there were any questions or comments. Member Damrell asked Mr. Silva if the first case, *County of Butte v. California Department of Water Resources*, was pending in the Third District Court of Appeals. Mr. Silva responded it was in the Third Appellate District. Member Damrell asked if it was scheduled for argument anytime soon. Mr. Silva responded not from what was indicated on the docket. The last action on the case was the filing of amicus briefs by Friends of the River and the California Sportfishing Protection Alliance.

Regarding the *County of Butte v. California Department of Water Resources*, Vice Chair Tatayon asked what the plaintiffs were hoping to gain. Acting Chief Counsel Bethany Pane responded that it was challenging the adequacy of the Environmental Impact Report (EIR) that was prepared for the Federal Energy Regulatory Commission's relicensing effort.

Regarding *Yurok Tribe et. al., v. Unites States Bureau of Reclamation et. al.*, Member Weinberg asked for clarification about the U.S. Bureau of Reclamation's (Reclamation) incidental take permit of the infected species. Mr. Silva clarified that only a certain

percentage of the juvenile Coho salmon are infected by the parasite, *C. Shasta*, and in the particular years, the infection rates exceeded the percentage so they were obligated to reinitiate formal consultation under the Environmental Species Act and release flows in an attempt to remedy the situation.

### **7b. Legislative Update**

Executive Officer Pearson invited Ryan Stanbra to provide the Legislative Update. Mr. Stanbra's update is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-7b-legislative-update>. Mr. Stanbra also provided the Council with the Legislative Tracking Report for February 2017 that is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-7b-legislative-tracking>.

Following Mr. Stanbra's update, Chair Fiorini asked if there were any questions or comments. Member Tatayon requested clarification as to what sort of changes to Sustainable Groundwater Management Act were included in AB 487. Mr. Stanbra responded that at this point, AB 487 is a placeholder, offering only intent language.

Member Weinberg noted that AB 472 may be a tool to incentivize the coequal goals and possibly the Council might work with the member on the shaping of the bill.

Ms. Pearson concluded her report by previewing the agenda.

### **8. Lead Scientist's Report**

Dr. Cliff Dahm presented the Lead Scientist's Report, covering a number of collaborative and science communication activities. The staff report for Agenda Item 8 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-8-lead-scientists-report>.

Dr. Dahm briefed the Council on the Chapman Conference on Extreme Climatic Events, sponsored by the American Geophysical Union, which he attended Jan. 22-27. The conference focused on the effects of extreme climatic events on aquatic ecosystems and brought together scientists from around the world who have research on that topic. Dr. Dahm gave one of the invited talks concerning the effects of catastrophic forest fires on water quality from subsequent storm events, when precipitation fell on burn scars. Dr. Dahm made brief comments on talks that were relevant to California. Laurel Larson, from the University of California, Berkeley, showed how extreme drought affected salmon in the coast range streams in northern California. Amy Burgin, from the University of Kansas presented the concept of "weather whiplash," where droughts are commonly ended by floods that mobilize large quantities of nutrients from row-crop agriculture in the Midwest. Peter Raymond from Yale University discussed his pulse/shunt hypothesis where streams and rivers move back and forth between effective processors of nutrients during low and moderate flows and pipes that transport nutrients during high flow events. Emily Bernhardt documented the impacts of peatland conversion to farmland in coastal North Carolina.



Dr. Dahm introduced Alison Whipple, a 2016 Delta Science Fellow, who received the first place award for Best Poster presentation at the 2016 Bay-Delta Science Conference. Whipple presented a PowerPoint on her poster that is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-8-presentation-alison-whipple>. Dr. Dahm also noted another accomplishment of Ms. Whipple. As a staff member at the Aquatic Science Center at the San Francisco Estuary Institute, Ms. Whipple and her colleagues published a paper in August 2012, "*Sacramento-San Joaquin Delta Historical Ecology Investigations Exploring Pattern and Process*." Dr. Dahm said the document is an examination to assess the status and trends within the Delta.

Dr. Dahm made brief comments on a forum convened on Jan. 31, 2017 to consider and discuss how the Delta has changed regarding primary production. An overview paper titled "Primary Production in the Delta: Then and Now" by Cloern et al. (2016) has been published in the *San Francisco Estuary and Watershed Science* electronic journal supported by the Council (<http://escholarship.org/uc/item/8fq0n5gx>). A comprehensive report of the workshop is available at (<http://www.sfei.org/news/delta-primary-production-workshop#sthash.xAJGVuAC.dpbs>).

Dr. Dahm briefly discussed a recent symposium on tools and approaches to evaluate contaminants, held Jan. 31, 2017. Presentations and perspectives at the symposium were provided by national and international science experts. A link to the archived video of the symposium will be available at: <http://cmsi.ucdavis.edu/events/>.

Dr. Dahm summarized the journal article *Declining Streamflow Induces Collapse and Replacement of Native Fish in the American Southwest*. The article examines how climate and hydrological change affect the resiliency of fish populations in the rivers in the American southwest. Native fish populations were modeled to have significantly higher risk of near-extinction compared to non-native fish populations. He said the study helps us understand how river flows are linked to fish biodiversity. Hydrological changes to the rivers need to be mitigated if we are to slow down the rapid replacement of native fish species with non-native species in the American southwest rivers.

After Dr. Dahm concluded the Lead Scientist's Report, he invited Sam Harader to discuss the *By the Numbers* report. Before presenting *By the Numbers*, which is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-8-attachment-1-numbers>

Dr. Dahm announced this would be the last time Mr. Harader presented to the Council as he is retiring in March. Dr. Dahm and the Council thanked Mr. Harader for his service and wished him the best in his retirement.

Chair Fiorini asked if there were any questions or comments from the public; there were none.

## **9. Delta Independent Science Board Recent Accomplishments and Upcoming Activities**

Dr. Jay Lund, Chair of the Delta Independent Science Board (Delta ISB), presented Agenda Item 9, the recent accomplishments and upcoming activities of the Delta ISB. The staff report for Item 9 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-9-delta-independent-science>. Attachment 1, Projected Work Plan for the Delta ISB is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-9-attachment-1-2017-delta>.

Dr. Lund began by briefly describing the Delta ISB and its role. Then, he went on to describe the work products completed by the Delta ISB during 2016, including reviews of adaptive management, water quality, and levee hazards in the Delta. The work products Dr. Lund described can be found on the Council's website at:

- [Improving Adaptive Management in the Sacramento-San Joaquin Delta](#)
- [Modeling Barriers and Levee-Break Effects on Delta-Wide Salinity Letter](#)
- [Review of the Process for Refining and Updating Delta Plan Performance Measures](#)
- [Water Quality Review Final Prospectus](#)
- [Workshop Report - Earthquakes and High Water as Levee Hazards in the Sacramento-San Joaquin Delta](#)
- [Accolades, Suggestions, and Further Comments on the 2016 Conference Letter](#)

Dr. Lund briefed the Council on current and upcoming activities. He noted that the review of the Water Board's Working Draft Scientific Basis Report for New and Revised Flow Requirements on the Sacramento River and Tributaries, Eastside Tributaries to the Delta, Delta Outflow, and Interior Delta Operations (Phase 2) had been completed and the review of the Final EIR/S for California WaterFix should be completed in the next few months.

Several thematic program reviews to be done this year include Water Quality Science; Delta as an Evolving Place; and Comprehensive Assessment of the Bay-Delta Monitoring Enterprise. Dr. Lund noted that most science expenditures in the Delta are for monitoring. Finally, the Delta ISB expects to do Delta Plan Amendment-related reviews such as Conveyance, Storage, and Operations and Ecosystem Restoration.

Another ongoing activity is the recruitment for the new Lead Scientist. The Delta ISB reviewed applications for the position and recommended four candidates for interviews and further consideration.

Following Dr. Lund's report, Chair Fiorini asked if there were any questions or comments.

Regarding the review of the final EIR/S for WaterFix, Member Johnston asked if this is where the Delta ISB will apply lessons and recommendations that were developed in the earlier reviews. Dr. Lund responded that they would like to keep the report shorter and more focused so more people read it. The report will bring forth the most important lessons. Ms. Pearson noted that she and Chair Fiorini asked the Delta ISB to review the final EIR to see if the Councils' comments were adequately addressed. On the question of adaptive management and applying lessons learned, the Council may want to request further review. Dr. Lund agreed that adaptive management may require further review.

Member Tatayon asked if the comprehensive assessment of Bay-Delta monitoring will inform the implementation of the Dodd bill which is requiring data transparency and integration. Dr. Lund responded that it would be one aspect.

## **10.2017 Priorities**

Ms. Pearson presented Agenda Item 10, discussing the proposed staff priorities for 2017 and core functions being carried out by the Council staff.

The staff report for Item 10 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-10-2017-priorities>. Attachment 1, 2017 Priorities Work Plan Matrix is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-10-attachment-1-2017>.

Ms. Pearson reported that last month the Council reviewed the 2016 accomplishments and this month she would discuss the proposed 2017 priorities, which broadly include updating and implementing both the Delta Plan and the Delta Science Plan and leading efforts of the Delta Plan Interagency Implementation Committee.

The Council's Planning Division will be focused on Delta Plan amendments such as conveyance, storage, and operations, and completion of the DLIS. In addition, staff will continue to work with its agency partners on ecosystem restoration planning and implementation efforts including the Delta Conservation Framework and the Yolo Bypass Partnership. Regarding Delta as a Place, staff will participate in the Delta Protection Commission's (DPC) "Delta as Place" interagency working group as well as cohost a workshop with the DPC for local Delta planners to collaborate on land use planning, particularly with respect to climate adaptation and in order to ensure that the Council can accurately track Delta Plan implementation.

The Delta Science Program has a number of equally challenging and exciting endeavors planned this year. In support of the "One Delta, One Science" vision, staff will lead the development of the shared Science Action Agenda. In collaboration with other State agencies, the Delta Science Program will develop an adaptive management framework for the 16 California EcoRestore habitat restoration projects and publish a paper on how an adaptive management approach can advance water supply reliability. The Council will fund high-impact science actions and will continue to work with the



Delta science community to prioritize research, monitoring, and modeling. This will include an effort led by the Lead Scientist to characterize baseline conditions in the Sacramento River and Delta in advance of the Sacramento Regional County Sanitation District's Wastewater Treatment plant upgrade. We will also publish a "lessons-learned" white paper on the impacts associated with the drought in the Delta. Ms. Pearson concluded by discussing core functions including: facilitating peer reviews; assembling expert panels; ongoing engagement on covered actions; and continuing outreach activities.

Chair Fiorini asked if there were any questions or comments.

Member Johnston noted that the ecosystem report strikes him as an example of a really hard thing to do. Where do we go from here? Ms. Pearson responded that the development of the white paper for the 16 California EcoRestore projects is important because they are 16 projects that are not directly interconnected.

At the conclusion of Agenda Item 10, the Council recessed for lunch at 12:10 and reconvened at 1:05.

## **11. Update regarding the WaterFix Delta Water Conveyance Project**

Executive Officer Pearson invited Dan Constable to provide the update for Agenda Item 11. The Staff report for Agenda Item 11 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-11-update-regarding-waterfix>. Attachment 1, Map of Preferred Alternative (WaterFix Final EIR/S Figure ES-3) is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-11-attachment-1-map-preferred> and Attachment 2, Examples of Summary Figures (WaterFix Final EIR/S Figs. ES-4 and ES-14) is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-11-attachment-2-examples>.

Mr. Constable explained that WaterFix is the Preferred Alternative to the Bay Delta Conservation Plan (BDCP), which was previously to be incorporated into the Delta Plan upon approval as a Natural Community Conservation Plan and a Habitat Conservation Plan (NCCP/HCP). The change in approach was the result of concerns of whether the NCCP/HCP approach was appropriate given the 50-year timeline and considerable ecological uncertainties. WaterFix instead would seek regulatory approval for new Delta water conveyance facilities under the Federal Endangered Species Act and State 2081 (b) permit consultation processes. The change in strategy means that WaterFix will not automatically be incorporated into the Delta Plan. DWR has stated that WaterFix is now a covered action and will be subject to Delta Plan regulations that require a certification of consistency to be submitted to the Council. WaterFix retains many aspects of BDCP, but does not include the entire suite of conservation measures proposed under BDCP. A separate restoration effort, California EcoRestore, would implement select aspects of the conservation measures that were referenced in BDCP.

As part of WaterFix, DWR proposes to construct three north Delta diversions to divert water in the north Delta and two new pumping stations in the south Delta. The new conveyance infrastructure would operate in coordination with existing south Delta export facilities. Mr. Constable explained selected components of BDCP and WaterFix as well as the reason for the change.

Member Weinberg asked if Mr. Constable could speak to the 189,000 acre-feet flow average identified in the preferred alternative as the total annual State Water Project and Central Valley Plan Delta exports. Mr. Constable responded that it is compared to the no action alternative. In terms of the long term average, he agreed that having a single number glosses over the details and that we really need to look at the dry years and wet years and everything in between. In wet years, more water would be taken and in dry years less water would be taken. Member Weinberg suggested that we have to be careful that we don't lose what we're trying to achieve by looking at averages without really understanding the ramifications. Chair Fiorini asked Member Weinberg if it would be helpful if the models determining flow alternatives included very dry, critically dry, average, wet, and very wet year scenarios? Member Weinberg agreed that you would want to look at that because it's important when you look at optimizing all the facilities. Chair Fiorini added that it would be very interesting to note what the projected annual spring outflow would be under those different hydrologic conditions. Mr. Constable said that the data is available in the modeling.

Next Mr. Constable discussed the current regulatory processes and anticipated timelines. He explained that the timelines for the proposed project have been difficult to predict and depend on the status of current consultation and hearing processes. Reclamation is currently in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and a final Biological Opinion will be produced as part of the process. This process is estimated to be concluded by April 2017. The California Department of Fish and Wildlife is reviewing potential impacts to state-listed species and may issue a 2081(b) permit if relevant conditions are met. Mr. Constable estimated this process to be concluded around April 2017 as well. WaterFix requires a permit from the Water Board for a change in point of diversion in order to construct the three new water conveyance intakes in the north Delta. Hearings regarding the petition for this permit began in July 2016 and have been separated into two parts. The first part will deal with injury to water rights holders and the second part involves the environmental aspects including public interests and impacts to the fisheries and beneficial uses. The second part of the hearing will begin after the 2081(b) permit and Biological Opinion, likely April or May 2017, followed by deliberation and a ruling. Because WaterFix would be a covered action, DWR will need to submit to the Council a certification of consistency with the Delta Plan. Early consultation about the certification has begun between DWR and Council staff. It is not anticipated that DWR would submit a certification of consistency until the conclusion of the State Water Resources Control Board hearing process, perhaps in late 2017.

Concluding his report, Mr. Constable briefly described the role of the Council. The Council is currently considering an amendment on Conveyance, Storage, and the Operation of Both and, depending on the timing of a certification for consistency for

WaterFix, the conveyance, storage, and operation of both amendment may be finalized prior to Council review of a certification, or it may be finalized after a certification has been submitted. If the certification of consistency were to be appealed, the Council would review the certification and appeal and hold a hearing to determine whether the WaterFix project is consistent with the Delta Plan.

Chair Fiorini asked if there were any more questions or comments. There were none.

## **12. Consideration of Draft Delta Plan Amendment Regarding Conveyance, Storage, and Operations**

Ms. Pearson introduced the item, noting the background found in the staff report. Because of the Administration's decision not to pursue the BDCP as an NCCP, any conveyance plan will be considered a covered action under the Delta Plan. She said the discussion draft presented today recommends preferred characteristics of new or improved conveyance, storage, and operations to address shortcomings and statewide goals. This is informed by hours of conversation at Council meetings, discussions with stakeholders, and policy-level analysis of multiple plans.

The staff report for Agenda Item 12 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-12-consideration-draft-delta>. Attachment 1, *19 Principles for Water Conveyance in the Delta, Storage Systems and for the Operation of Both to Achieve the Coequal Goals* is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-12-attachment-1-19-principles>; Attachment 2, Delta Plan Summary and New Scientific Findings for Delta Plan Update in Storage, Conveyance and Operation (October 2015) is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-12-attachment-2-delta-plan>; Attachment 3, Discussion Draft of Delta Plan Amendment for Water Conveyance, System Storage and the Operation of Both is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-12-attachment-3-discussion>; and Attachment 4, Updated Scientific Findings for Delta Plan Amendment concerning Storage, Conveyance, and Operation (February 2017) is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-12-attachment-4-updated>.

Cassandra Enos, deputy executive officer for planning, introduced the panel: Anthony Navasero, Council staff, and Kari Shively with the Stantec consulting team. Mr. Navasero provided background for the amendment. Ms. Shively walked the Council through the draft itself. Ms. Enos wrapped up the presentation by presenting the science that was used to develop the discussion draft, future next steps, and public outreach efforts. Three outreach meetings will be held: March 3 in Tracy, March 6 in Diamond Bar, and March 9 in Sacramento. All of the feedback will be incorporated into another draft that will be presented to the Council at the March meeting. A CEQA scoping meeting is also scheduled for March 24 in Sacramento. She said staff intends to come

back in April with a third draft and ask the Council to approve the draft in order to begin the CEQA process.

Chair Fiorini asked the panel to describe how they've worked with the California Water Commission (CWC) related to their Prop. 1 storage funding. Mr. Navasero noted that staff has coordinated with CWC staff since the beginning of the Prop. 1 program development. Some of the information the CWC received has been included in the CSO amendment.

Mr. Weinberg suggested considering more discussion in the problem statement regarding the status quo in order to make the case as to why this action is needed. Specifically, more details about why these recommendations are being made and tying the recommendations to the problem statement; be clear that we are interested in reducing reliance on the Delta; better define regions; and develop metrics and performance measures that are consistent with our goals.

Regarding **Page 13, Item G**, Vice Chair Tatayon suggested that the U.S. Army Corps of Engineers *and partners* be encouraged to address the issue.

Supervisor Thomson provided specific comments:

- **Page 2, line 14**, be consistent with how we portray and encourage water conveyance during wet and dry years;
- **Page 2, line 18**, need to be able to move excess water and be able to recharge groundwater;
- **Page 4, line 17**, consider more water storage within the Delta.

Member Johnston concurred with Member Weinberg's point regarding the document's need to stand on its own by providing justification for the recommendations. The tone of the document needs to be balanced; it is currently framed as a water exporter would frame it. The tone needs to shift in order for us to address the coequal goals effectively. We need to make the case for environmental improvement not just a mitigation necessity.

Judge Damrell echoed Member Johnston's comment regarding tone and balance and suggested looking at the problem statement to address this.

Member Weinberg asked if we are advocating for new facilities and storage and what is the role of groundwater storage? He said it was not clear to him if the Council is advocating for these as part of the solution.

Member Thomson referred to **page 5, line 15**, and asked why the Council is making recommendations on specific projects? Ms. Pearson responded that is the way staff is interpreting "promoting options."

Vice Chair Tatayon suggests giving the reader an idea of how long we have been struggling with this, perhaps giving the history in the introduction. She recalled during Delta Vision it was said, "...we've been over this since 1982, and there are only three

ways to go – through, around, or under”. Also, on **page 3, line 18**, speaking of tone, Vice Chair Tatayon said she would encourage that we stay away from the word “valid”. Instead placing it in the context of State mandates to avoid getting into the argument of what is valid and invalid.

Judge Damrell said he echoed Vice Chair Tatayon’s comment and also thinks we need a historical perspective. We are working under a legislative mandate, but a historical perspective is very important as a preamble.

Chair Fiorini asked if there were any other questions or comments. There were none. Chair Fiorini asked if there were any members of the public who wished to comment.

#### Public Comment – Agenda Item 12

Thomas Pate, Solano County Water Agency. When thinking of water supply reliability, there is the export Delta water supply, but there is also a local water supply component that is not highlighted as much as it should be. Mr. Pate said there is always talk about how the coequal goals need to protect water quality for in-Delta use; the supply side of in-Delta use should be protected as well.

#### **13. Public Comment**

Chair Fiorini asked if there were any members of the public who wished to address the Council. There were none.

The meeting adjourned at for the day at 2:20 p.m.

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#### **Day 2: Friday, February 24, 2017**

#### **14. Call to Order**

The meeting was called to order at 9:01 a.m., Feb. 24, 2017, by Chair Randy Fiorini.

#### **15. Roll Call – Establish a Quorum (Water Code §85210.5)**

Roll call was taken and a quorum was established. The following members were present: Patrick Johnston, Mike Gatto, Ken Weinberg, Susan Tatayon, Randy Fiorini, Skip Thomson. The following member was absent: Frank Damrell.

#### **16. Consideration of Draft Delta Plan Amendment Regarding Priorities for Investment in Delta Levees**

Executive Officer Pearson introduced Item 16 and provided background. In December 2016, the Council approved a discussion draft of a proposed amendment regarding priorities for investment in Delta levees. Since that time, the Council received input during public outreach workshops as well as comments submitted in writing by stakeholders and included in today’s meeting materials. The revised discussion draft will

be the focus of today's meeting. Ms. Pearson said there was no action requested on this item – staff hoped to receive final feedback on the recommendation and to also hear from the public.

Ms. Pearson invited Dan Ray, chief deputy executive officer; Dustin Jones, supervising engineer; and Larry Roth of Arcadis to present Agenda Item 16, Consideration of Draft Delta Plan Amendment Regarding Priorities for Investments in Delta Levees.

The staff report for Item 16 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-16-consideration-draft-delta>. Attachment 1, Discussion Draft of Potential Revisions to Chapter 7 Policies and Recommendations is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-16-attachment-1-discussion>; Attachment 2, Table of Levee Funding Programs is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-16-attachment-2-table-levee>; and Attachment 3, Table of Comments received Related to the Potential Revisions to Chapter 7 Policies and Recommendations is posted at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-february-23-24-2017-meeting-agenda-item-16-attachment-3-table>.

Mr. Ray opened the item for discussion with history and background about the development of the DLIS. He said the discussion draft before the Council today detailed the Council's core strategies to reduce risk to people, property and State interests in the Delta. These core strategies form the basis of the four policies and 15 recommendations and include an updated narrative and a list of issues that need attention but staff is not prepared to make a recommendation on now; science needs; performance measures; and references. The draft is based on the 2013 Delta Plan with the revisions shown in a track-changes format with yellow highlighting indicating changes proposed from the discussion draft approved in December.

Mr. Jones spoke on the public workshops that were held following the January Council meeting and the topics of discussion at the workshops.

Mr. Ray drew the Council's attention to the Table of Comments and the responses provided (Attachment 3) and asked Council members if they had any questions or comments. There were none. Next, Mr. Ray referenced Attachment 2, the Table of Levee Funding Programs and described the different programs included in the table. Mr. Ray asked if there were any questions related to this document.

Member Johnston said the spreadsheet was very helpful to him because it is hard to keep track of all the programs and funding sources and asked Mr. Ray how we would best keep track of how much money is available from the funding sources. Mr. Jones said that it was estimated there was \$155 million left in the Prop. 1E and 84 funds and Mr. Ray noted that for project levees, it was a little more complicated. Chair Fiorini said it would be useful to have a five-year breakdown of each of the activities so we have a feel for what has been spent in the different program activities.



To bring the levees up to the PL84-99 standard, Mr. Ray estimated that it would cost \$1.26 billion.

Mr. Jones and Mr. Ray walked through the discussion draft, beginning with the narrative, page by page noting changes suggested and asking for Council members' comments. Following is a summary of the comments and questions Council members discussed with Mr. Jones and Mr. Ray, listed by page.

### Council Comments on Narrative

Vice Chair Tatayon echoed Member Johnston's suggestion that we get an idea of past expenditures and what they have provided. She suggested the information in a geo-spatial format that included the expenditure, the benefit, and the type of repair or improvements was done.

Member Thomson asked if we shouldn't bring every island up to a standard and said as he looks at the map, some of the high priority areas are urban and they have money to spend on the levees, but it is the rural reclamations district that are struggling for funding. Mr. Ray said that we are not trying to shift money appropriated for rural areas to urban levees, but there is not enough money to bring all the levees up to the Bulletin 182-92 standard. Member Thomson said budgeting is about setting priorities and he would argue that we probably do have the money but it has not been allocated to the Delta. The Council needs to remind the State of the benefits and consequences of not allocating money for Delta levees.

Member Weinberg noted that a stable funding mechanism is important and asked if there should be further discussion in the chapter.

Mr. Ray said the narrative is the first 42 pages and, rather than go through it page-by-page, Mr. Ray gave a broad overview and asked if members had any questions.

**Page 23:** In reference to Floodplains and Channels, Chair Fiorini recommended adding Yolo Bypass as an example and Paradise Cut as a need.

**Page 29:** Chair Fiorini said that the DPC's letter raised a concern about levee maintenance being referenced in the same area as the prioritization approach. In lines 963-968, better define the priorities that are applied for levee maintenance.

**Page 34:** Chair Fiorini said when we reference dollars per levee mile, it doesn't mean anything to him and he would like to see a reference to the dollars per acre.

**Page 3:** Vice Chair Tatayon said on line 115, where it says "For example, a potential benefit of wide flood bypasses leading to the Delta may be greater flexibility ..." given the CVFPP, she would like to give the audience a sense of how restored floodplains can also help the overall system and possibly even provide for revised operations. She asked if staff could fit in "restored floodplain" after flood bypasses.

Member Johnston referenced a question at the public workshop in Walnut Grove about multi-island failure. What is the decision point where consideration is given to the habitat value of not restoring the island that may flood? Mr. Ray responded that the recommendation does not address this and makes no decisions about post-disaster response. Member Johnston asked if it would be reasonable to say that if there is an island that is imperiled by a flood, the policy should be for the Governor to convene DWR, the reclamation districts, the Council, or other agencies to discuss post disaster recovery. Mr. Ray said we could include the need for a more formal approach to post-disaster recovery for future consideration.

**Page 32, lines 1100-1103:** Member Weinberg feels there needs to be more criteria regarding post-emergency repairs.

Member Thomson suggested that DWR stockpiles be operated as a store, rather than operating as a lender. Mr. Ray responded that he was reluctant to get into the details of how DWR should do their accounting, but if that is a recommendation the Council wants to make it would warrant consideration. Mr. Jones said that he believed this issue was raised by one of the district engineers at a Delta Levees and Habitat Advisory Committee meeting and that this had been brought up with DWR's Flood Operations Branch. Mr. Jones suggested following up with the Flood Operations staff before making a recommendation. Member Thomson encouraged staff to follow-up with DWR and bring an explanation back to the Council.

#### Council Comments on Policies and Recommendations

Mr. Ray described the major changes included in this section, then turned to Mr. Jones to give a broad overview of the Modernizing Levee Information Management beginning with page 44.

Mr. Jones began by showing the map of the Preliminary Draft Delta Levees Investment Priorities (page 47) and stated that there were a few changes that occurred since January and the table on page 48, noting that Tyler Island was mistakenly not highlighted when it was upgraded to a "High Priority" ranking.

In response to Member Weinberg's earlier questions about priorities and DWR's contributions, Mr. Ray noted the language added on **Pg. 48, lines 1720-1728**, where DWR shall identify how funding is inconsistent with guidance and describe why variation from the priorities is needed. The determination is subject to review by the Council, on appeal. Member Weinberg said he understood the need for flexibility on a case-by-case basis, but this was different from a covered action. He wondered about a more defined process within DWR. Mr. Ray said staff is in consultation with DWR and will work to bring back language in March.

Member Thomson requested a definition of "other priority". Mr. Ray clarified that those are things that would be funded after the "high priority". Mr. Jones added that the categories were identified by risk such as "high priority," having near term risk to more

than one State interest and so forth. Member Thomson said he disagreed with this policy because smaller reclamation districts need help getting to the standard. Mr. Ray said they have heard that but when they run the numbers it gets to a cost that is in excess of the bond funds.

Vice Chair Tatayon said it would be helpful in future versions of the draft to somehow encapsulate what criteria is used for “other”. On **Pg. 51, lines 1858-1860**, where it says the duty of providing Delta Flood risk management should be borne by all entities benefiting from these actions...apportioning assessments should be developed and implemented”. Member Tatayon asked if we want to offer a suggestion as to when this should be done. Mr. Ray mentioned that it’s not doable now and it raises the question of how we deal with RR R5. The appropriate next approach would be to look at specific elements of improvement.

Member Thomson reminded the Council that the DPC is discussing assessments and that the entire process is incredibly complicated and taking longer than anticipated.

Mr. Ray noted that language was added to RR R7. A provision regarding CalTrans was added, noting that CalTrans should be given the authority to enter into agreements. Chair Fiorini suggested that we encourage the Legislature to grant this authority.

#### Issues for Future Evaluation and Coordination

Mr. Jones reviewed this section, especially the acknowledgement of continuing to engage in strategies to accommodate climate change and rising sea level.

#### Science and Information Needs

Some new text was added acknowledging the constant availability of new data and need to incorporate new data when feasible. Lines 2364 - 2386 includes areas where additional information will be needed.

On **page 63, line 2384**, Vice Chair Tatayon asked to add language so that the bullet reads, “Understanding the impacts on Delta flood management from upstream *flood plain conservation* and flood management infrastructure operations, including reservoir operations.”

#### Performance Measures

Mr. Ray described the purpose of performance measures and targets and discussed how staff has tried to respond to public comments. Mr. Weinberg recognized that we’re setting a target – bringing them up to a standard but also that there isn’t enough money to get them there. Our report to the Legislature should highlight the inadequacy of the funding.

#### Public Comment – Agenda Item 16

Tom Zuckerman, Central Delta Water Agency (CDWA). Mr. Zuckerman referenced the letter that was sent to staff and highlighted a few key points (<http://deltacouncil.ca.gov/docs/central-delta-water-agency-re-draft-delta-plan-revisions-regarding-priorities-state-delta-levee>): eliminate the \$1,000per-mile threshold and allow for increased State cost share; widen the levee crown to accommodate parking and access where local maintaining agencies request public access; and establish a base level of protection.

Melinda Terry, North Delta Water Agency. Ms. Terry expressed support of the CDWA letter. When it comes to the prioritization, however, the Council needs to take bond funding into consideration, and in particular the way in which bond funds are very restricted.

Mr. Ray noted that staff will bring back a revised recommendation in March.

## **17. Public Comment**

Tom Zuckerman, CDWA, regarding Agenda Item 12. Mr. Zuckerman suggested that conveyance is the last piece of the conveyance, storage, and operations puzzle, noting that we can't design a conveyance system until we know where the water supply is and where the water will be stored. We need to figure out how much, when, and then build the conveyance structure.

**18. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date.**

**The meeting adjourned at 11:45 a.m.**